

ASSEMBLY BILL

No. 451

**Introduced by Assembly Member Yee
(Coauthors: Assembly Members Jones and Oropeza)**

February 15, 2005

An act to amend Sections 7204.03 and 7205 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 451, as introduced, Yee. Local sales tax: jet fuel: place of sale.

The Bradley-Burns Uniform Local Sales and Use Tax Law authorizes counties and cities to impose sales and use taxes pursuant to the adoption of local ordinances. That law provides, for purposes of applying a local sales tax imposed under that law to sales of jet fuel, that the point of sale of that jet fuel is the point of delivery of the jet fuel to the aircraft if, both the principal negotiations for that sale are conducted in this state, and the retailer of that jet fuel has more than one place of business in this state.

This bill would provide that the point of sale of jet fuel is the point of delivery of that jet fuel to the aircraft if the principal negotiations for the sale are conducted in this state, and would delete the requirement that the retailer of the jet fuel also have more than one place of business in this state.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 7204.03 of the Revenue and Taxation
- 2 Code is amended to read:

1 7204.03. (a) Notwithstanding any other provision of this part,
2 in the case of retail sales of jet fuel ~~that are, in accordance with~~
3 ~~paragraph (2) of subdivision (b) of Section 7205, for which the~~
4 *principal negotiations occur in this state, that are* consummated
5 at the point of delivery of that jet fuel to an aircraft at a
6 multijurisdictional airport, the sales tax revenues collected by the
7 board pursuant to this part with respect to those sales shall be
8 transmitted by the board in accordance with subdivision (b). For
9 purposes of this section, a “multijurisdictional airport” is an
10 airport that is owned or operated by a city, county, or city and
11 county that meets both of the following conditions:

12 (1) The owning or operating city, county, or city and county
13 imposes a local sales tax pursuant to an ordinance adopted
14 pursuant to this part.

15 (2) The owning or operating city, county, or city or county is
16 different from the city, county, or city and county in which the
17 airport is located.

18 (b) (1) Except as provided in paragraph (2), the sales taxes
19 collected by the board pursuant to this part with respect to retail
20 sales of jet fuel described in subdivision (a) shall be transmitted
21 by the board in accordance with the following:

22 (A) One-half to the county or city and county in which the
23 point of delivery to the aircraft is located, less the amount
24 transmitted to a city pursuant to subparagraph (B), if any; and
25 one-half to the county or city and county that owns or operates
26 the airport or to the county in which the city that owns or
27 operates the airport is located, less the amount transmitted to a
28 city pursuant to subparagraph (C), if any.

29 (B) If the multijurisdictional airport is located in a city
30 imposing a local sales tax pursuant to an ordinance adopted
31 pursuant to this part, the board shall transmit to that city that
32 amount of sales taxes collected by the board with respect to retail
33 sales of fuel described in subdivision (a) that is based on 50
34 percent of the rate set by that city’s ordinance.

35 (C) If the multijurisdictional airport is owned or operated by a
36 city imposing a local sales tax pursuant to an ordinance adopted
37 pursuant to this part, the board shall transmit to that city that
38 amount of sales taxes collected by the board with respect to retail
39 sales of fuel described in subdivision (a) that is based on 50
40 percent of the rate set by that city’s ordinance.

(2) Notwithstanding paragraph (1), both of the following shall apply:

(A) In the case of retail sales of jet fuel as described in subdivision (a) that are consummated at San Francisco International Airport, one-half of the sales taxes collected by the board pursuant to this part with respect to those sales shall be transmitted by the board to the City and County of San Francisco, and one-half of the sales taxes collected by the board pursuant to this part with respect to those sales shall be transmitted by the board to the County of San Mateo.

(B) In the case of retail sales of jet fuel as described in subdivision (a) that are consummated at Ontario International Airport, the board shall transmit sales taxes collected by the board pursuant to this part with respect to those sales in accordance with both of the following:

(i) All of the sales taxes that are derived from a local sales tax rate imposed by the City of Ontario shall be transmitted to that city.

(ii) All of the sales taxes that are derived from a local sales tax rate imposed by the County of San Bernardino shall be allocated to that county.

SEC. 2. Section 7205 of the Revenue and Taxation Code is amended to read:

7205. (a) ~~For~~ *Except as provided in subdivisions (b) and (c),* for the purpose of a sales tax imposed by an ordinance adopted pursuant to this part, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his or her agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from those sales shall include delivery charges, when those charges are subject to the state sales and use tax, regardless of the place to which delivery is made.

(b) ~~(1)~~ In the event a retailer has no permanent place of business in the state or has more than one place of business, the place or places at which the retail sales are consummated for the purpose of a sales tax imposed by an ordinance adopted pursuant to this part shall, subject to ~~paragraph (2)~~ *subdivision (c)*, be determined under rules and regulations to be prescribed and adopted by the board.

1 ~~(2)–~~
2 (c) In the case of a sale of jet fuel, the place at which the retail
3 sale of that jet fuel is consummated for the purpose of a sales tax
4 imposed by an ordinance adopted pursuant to this part is the
5 point of the delivery of that jet fuel to the aircraft, if ~~both of the~~
6 ~~following conditions are met:~~
7 ~~(A)–The~~*the* principal negotiations for the sale are conducted in
8 this state.
9 ~~(B)–The retailer has more than one place of business in the~~
10 state.